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November 10, 2014

BY CERTIFIED MAIL

Henry Bouchard, President
Causeway Enterprises, Inc.
65 School Street
Middleton, MA 01949
Certified Mail # 7012 2210 0001 3554 3789

Re: 60-Day Notice of Violations and Intent to File Suit Regarding Noncompliance with Federal Clean Water Act's Industrial Stormwater Discharge Requirements: 77 Bridge Road, Salisbury MA

Dear Mr. Bouchard:

This office represents Clean Water Action, a national non-profit citizens' organization working for prevention of pollution in the nation's waters, protection of natural resources, creation of environmentally-safe jobs and businesses, and empowerment of people to make democracy work. Clean Water Action has over one million members nationally, more than 50,000 of whom reside in Massachusetts.

We write to give notice that Clean Water Action intends to file a civil action in the United States District Court for the District of Massachusetts under section 505 of the Federal Clean Water Act (the "Act") against Causeway Enterprises, Inc. ("Causeway"). The subject of the action will be Causeway's unlawful discharge of stormwater from its scrap metal facility at 77 Bridge Road, Salisbury (the "Facility"). Stormwater runoff from the Facility is discharged into wetlands and waterways connected to Town Creek, a tributary of the Merrimack River. In addition, an active portion of Causeway's facility may be situated in the wetland itself. Causeway has not submitted a Notice of Intent ("NOI") to be covered by EPA's reissued Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "Permit").

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BACKGROUND

Activities that take place at industrial facilities, such as material handling and storage, are often exposed to the weather. As runoff from rain or snowmelt comes into contact with these materials, it picks up pollutants and transports them to nearby rivers, lakes, or coastal waters and tributaries thereto, including but not limited to storm sewer systems, wetlands, and other surface waters. Stormwater pollution is a significant source of water quality problems for the nation's waters.

The following are some of the activities, pollutant sources and pollutants that may be present with Causeway's automobile salvage yards processes:[1]

Activity	Pollutant Source	Pollutant
Stockpiling and storage of materials (including loading and unloading)	Leaking of various fluids from used automotive engines, radiators, brake fluid reservoirs, transmission housings, other vehicle parts, and lead-acid from batteries; Deterioration/corrosion of materials.	PCBs; oil and grease; lubricants; paint pigments or additives; heavy metals; ionizing radioactive isotopes; transmission and brake fluids; fuel; battery acid; lead acid; antifreeze; benzene; chemical residue; heating oil; petroleum products; solvents; ionizing radioactive isotopes; infectious/bacterial contamination; asbestos; metals; total Kjeldahl nitrogen (TKN); oily wastes; chemical residue.

[1] Source: EPA Industrial Stormwater Fact Sheet Series, Sector N: Scrap Recycling and Waste Recycling Facilities, recovered from http://water.epa.gov/polwaste/npdes/stormwater/upload/sector_n_scraprecycling.pdf.

Material processing: Air pollution equipment (including incinerators, furnaces, wet scrubbers, filter houses, and bag houses)	Normal equipment operations that include the collection and disposal of filter bag material and ash, process wastewater from scrubbers, accumulation of particulate matter around leaking joint connections, malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings).	Hydraulic fluids; oils; fuels; grease and other lubricants; accumulated particulate matter; chemical additives; and PCBs from oil-filled electrical equipment.
Material processing: Combustion engines	Spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections; worn gaskets; leaking transmissions, crankcases, and brake systems (if applicable); leaking battery casings and/or corroded terminals.	Accumulated particulate matter; oil/Lubricants; gas/diesel fuel; fuel additives; antifreeze (ethylene glycol); battery acid; and products of incomplete combustion.
Material processing: Material handling systems (forklifts, cranes, and conveyors)	Spills and leaks from fuel tanks, hydraulic and oil reservoirs due to malfunctioning parts (e.g., worn gaskets and parts, leaking hose connections, and faulty seals). Damaged or faulty electrical switches (mercury filled). Damaged or leaking battery casings, including exposed corroded battery terminals. Damaged or worn bearing housings.	Hydraulic fluids; oils, fuels and fuel additives; grease and other lubricants; accumulated particulate matter; chemical additives; mercury; lead; battery acid.
Material processing: Stationary scrap processing facilities (balers, briquetters, shredders, shearers, compactors, engine block/cast iron breakers, wire-chopper, turnings crusher)	Leaks from hydraulic reservoirs, hose and fitting connections; worn gaskets; spills or leaks from fuel tanks; particulates/residue from scrap processing; malfunctioning pumps and motors (e.g., leaking gaskets, seals or pipe connections, leaking oil-filled transformer casings).	Heavy metals (e.g., zinc, copper, lead, cadmium, chromium) and hydraulic fluids; PCBs.

Material processing: Hydraulic equipment and systems, balers/briquetter, shredders, shearers, compactors, engine block/ cast iron breaker, wire chopper, turnings crusher	Particulate/residue from material Processing; spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections/fittings; leaking gaskets.	Hydraulic fluids/oils; lubricants; particulate matter from combustion engines; PCBs (oil-filled electrical equipment components); heavy metals (nonferrous, ferrous).
Material processing: Electrical control systems (transformers, electrical switch gear, motor starters)	Oil leakage from transformers; leakage from mercury float switches; faulty detection devices.	PCBs; mercury (float switches); ionizing radioactive material (fire/smoke detection systems).
Material processing: Torch cutting	Residual/accumulated particulates.	Heavy metal fragments, fines.
Material handling systems	Spills and/or leaks from fuel tanks; spills/leaks from oil/hydraulic fuel reservoirs; faulty/leaking hose connections/fittings; leaking gaskets.	Accumulated particulate matter (ferrous and nonferrous metals, plastics, rubber, other); oil/lubricants; PCBs (electrical equipment); mercury (electrical controls); lead/battery acids.
Vehicle maintenance	Parts cleaning; waste disposal of rags; oil filters; air filters; batteries; hydraulic fluids; transmission fluids; brake fluids; coolants; lubricants; degreasers; spent solvents.	Gas/diesel fuel; fuel additives; oil/lubricants; heavy metals; brake fluids; transmission fluids; chlorinated solvents; arsenic.
Vehicle fueling	Spills and leaks during fuel transfer; spills due to "topping off" tanks; runoff from fueling areas; washdown of fueling areas; leaking storage tanks; spills of oils; brake fluids; transmission fluids; engine coolants.	Gas/diesel fuel; fuel additives; oil; lubricants; heavy metals.
Vehicle and equipment cleaning and washing	Washing and steam cleaning.	Solvent cleaners; oil/lubricants/additives; antifreeze (ethylene glycol).

Clean Water Action will ask the Court to ensure Causeway's future compliance with the Act, assess civil penalties in an appropriate amount,[2] award plaintiff its litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. Clean Water Action's complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day notice of intent to sue that is being served pursuant to 40 C.F.R., Part 135.

This notice is being provided by:

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Clean Water Action
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(617) 335-6449 (fax)

Counsel for Clean Water Action in this case is:
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CAUSEWAY'S VIOLATIONS AND DATES OF VIOLATIONS

A. THE REQUIREMENTS OF THE ACT

1. Pollutant Discharges without a Permit are Illegal.

The Clean Water Act makes the discharge of pollution into waters of the United States unlawful unless the discharge is in compliance with certain statutory requirements, including the requirement that the discharge be permitted by the federal Environmental Protection Agency ("EPA") under the National Discharge Elimination System ("NPDES").

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[2] The Statute authorizes the Court to assess a penalty of up to $37,500 a day for each violation. *See* 33 U.S.C. § 1319(d) and 78 Fed. Reg. 66647 (Nov. 6, 2013).

2. Scrap Metal Facilities Must Comply with EPA's Permit.

In order to minimize polluted stormwater discharges from industrial facilities, EPA has issued a permit that regulates stormwater discharges from certain industrial categories.[3] Scrap metal facilities are subject to the requirements of this Permit.[4] Scrap metal facilities which carry on other types of activities also subject to the requirements of the Permit must also comply with any sector-specific requirements for such co-located industrial activity.[5]

3. Scrap Metal Facilities Must Develop and Implement a Stormwater Pollution Prevention Plan ("SWPPP").

An owner or operator (hereafter referred to as "operator") of a facility subject to the requirements of the Permit must prepare a SWPPP before being authorized to discharge under the Permit.[6] The SWPPP must be "prepared in accordance with good engineering practices"[7] and, among other things,

- identify potential sources of pollution at the facility;[8]
- describe and ensure implementation of control measures that are technologically available and economically practicable and achievable in light of best industry practice;[9] and
- set forth specific procedures to assure compliance with effluent limitations and monitoring/inspection requirements of the Permit.[10]

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[3] The Permit expired on September 29, 2013, but has been administratively continued by its own terms for facilities that were previously permitted.

[4] Permit, Appendix D, pg. D-4.

[5] Permit, pg. 97.

[6] Permit, Section 5 and Section 8.N.4.

[7] Permit, pg. 12 (referring to "control measures").

[8] Permit, pgs. 27-28.

[9] Permit, pgs. 12, 28-29.

[10] Permit, pgs. 29-30.

4. Scrap Metal Facilities Must Submit to EPA a Notice of Intent to be covered by the Permit By EPA's Established Deadlines.

After completing and implementing its SWPPP,[11] a scrap metal facility must submit to EPA a Notice of Intent ("NOI") to be covered by the Permit. EPA's initial NOI filing deadline was January 1, 1996.[12] When the agency reissued the Permit in 2008, it reminded operators of subject facilities that unpermitted stormwater discharges are "unauthorized," and ordered all subject facilities to file an NOI for the 2008 permit by January 5, 2009.[13]

5. Scrap Metal Facilities Must Comply with the Terms of the Permit.

The Permit requires scrap metal facilities to, among other things:

a. ensure that stormwater discharges meet applicable water quality standards;[14]
b. reduce and/or eliminate pollutants to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice;[15]
c. implement specific best management practices set forth in the Permit for scrap metal facilities;[16]
d. monitor stormwater discharges for compliance with benchmark limitations applicable to scrap metal facilities;[17]
e. perform periodic inspections for stormwater compliance;[18]

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[11] Permit, pg. 25 ("You must prepare a SWPPP for your facility before submitting your Notice of Intent (NOI) for permit coverage.").

[12] See 60 Fed. Reg. 50804.

[13] Permit, pg. 9 (unpermitted discharges from the facility will continue to be "unauthorized" unless allowed under the Permit). See also 40 C.F.R. §122.28(b)(2)(i) ("A discharger ... who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge ....").

[14] Permit, pg. 16 ("Your discharge must be controlled as necessary to meet applicable water quality standards.").

[15] Permit, pg. 12.

[16] Permit, pgs. 97 - 101.

[17] Permit, pg. 102. Causeway was required to monitor for chemical oxygen demand (COD), total suspended solids (TSS), aluminum, copper, iron, lead, and zinc.

f. report on monitoring and inspections to EPA by specified deadlines;[19] and
g. comply with those permit conditions applicable to permittees in Massachusetts, including but not limited to
i. submission of monitoring results to the Regional Office of the Massachusetts Department of Environmental Protection ("MADEP") for the MADEP Region in which the Facility is located, where the monitoring identifies exceedences of any effluent limits or benchmarks for which monitoring is required under the Permit,
ii. where effluent limits and/or benchmarks are exceeded, submission to the MADEP Regional Office of any follow-up monitoring and a description of the corrective actions required and undertaken to meet those effluent limits and/or benchmarks, and
iii. continued benchmark monitoring until all four of the quarterly monitoring samples meet the benchmarks rather than the average of the four.[20]

B. CAUSEWAY'S VIOLATIONS AND DATES OF VIOLATIONS.

Clean Water Action's complaint will address violations that occurred during the last five years.

1. Violations That Have Occurred on Specific Days During the Last Five Years: Discharges of Stormwater from the Facility Without a NPDES permit.

Causeway's violations of the Act's prohibition against unpermitted discharges occurred and are continuing to occur at the Facility each time rain, snow melt or another factor results in industrial stormwater discharges from the Facility to waters of the United States. The days during the last five years on which rain, snow melt or other factors caused stormwater to be discharged from the Facility to waters of the United States are listed on Exhibit A hereto. Clean Water Action's complaint will also address any non-permitted stormwater discharge violations that occurred or occur between the last date listed on Exhibit A, and the date on which the complaint is filed.

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[18] Permit, Section 4, pgs. 20-25.

[19] Permit, pgs. 41-43.

[20] Permit, pgs. 140-141.

2. Violations that Have Occurred on Each Day During the Last Five Years:[21]

The following violations of the Act are set forth on Exhibit B. These violations have occurred on a daily basis for the last five years and they are continuing to occur.

a. failure to prepare and implement a SWPPP;
b. failure to submit an NOI to be covered by the Permit;
c. failure to ensure that stormwater discharges from the Facility will not cause or have the reasonable potential to cause or contribute to a violation of water quality standards;
d. failure to implement adequate control measures;
e. failure to monitor for compliance with benchmark limitations for COD, TSS, aluminum, copper, iron, lead, and zinc;[22]
f. failure to report monitoring results for the Facility to EPA by the specific deadlines;
g. failure to perform annual comprehensive site inspections, and
h. failure to complete and submit annual reports.

To the extent that Causeway is carrying out any other industrial activity at the Facility which is also subject to the requirements of the Permit, then Causeway's failure to comply with the Permit requirements for such co-located activities is also a violation of the Clean Water Act.

CONCLUSION

Clean Water Action believes this Notice of Violations and Intent to File Suit sufficiently states the basis for a civil action. During the 60-day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your attorney contact us within the next 20 days so that negotiations may be completed before the end of the 60-day notice period. We do not intend to delay the filing of a complaint in federal court if discussions are continuing when that period ends.

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[21] Clean Water Action believes that the violations set forth in this Section B.2 have occurred on each day of the last five years, and not just on rain days. However, to the extent it is determined that rain days are relevant in determining the dates of violations, such rain dates through October 30, 2014 are set forth on Exhibit A hereto. The complaint, when filed, will set forth additional rain dates since October 30, 2014.

[22] *See* Permit, Section 8.N.6.

Sincerely,

Nora J. Chorover
Attorney for
CLEAN WATER ACTION

cc: (by certified mail)

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Henry Bouchard, Registered Agent for
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EXHIBIT A

DAYS BETWEEN
NOVEMBER 5, 2009 AND OCTOBER 30, 2014
ON WHICH STORMWATER FROM FACILITY
DISCHARGED TO WATERS OF THE UNITED STATES

November 2009:	15, 21, 28
December 2009:	1, 3, 4, 6, 10, 14, 21, 27, 28
January 2010:	3, 18, 19, 20, 26
February 2010:	11, 17, 24, 25, 26, 27
March 2010:	1, 12, 14, 15, 16, 23, 24, 26, 27, 29, 30, 31
April 2010:	10, 17, 18, 28, 29
May 2010:	4, 5, 8, 9, 19, 20
June 2010:	4, 7, 11, 13, 23, 28
July 2010:	11, 13, 14, 20, 25
August 2010:	6, 10, 23, 24, 25, 26
September 2010:	4, 14, 17, 28, 29
October 2010:	2, 6, 7, 15, 16, 28
November 2010:	5, 8, 9, 10, 17, 18, 26
December 2010:	2, 13, 23, 27, 28
January 2011:	12, 13, 19, 20, 21, 22, 27
February 2011:	2, 3, 6, 8, 26, 27, 28
March 2011:	1, 7, 11, 12, 17, 22
April 2011:	1, 2, 5, 11, 14, 17, 20, 24
May 2011:	5, 8, 15, 16, 17, 18, 19, 24, 25
June 2011:	2, 10, 12, 23, 24, 25, 26, 29
July 2011:	5, 9, 14, 19, 26, 30
August 2011:	7, 8, 9, 10, 16, 26, 28, 29
September 2011:	6, 7, 8, 9, 16, 21, 22, 23, 24, 30
October 2011:	1, 3, 4, 5, 13, 15, 20, 27, 28, 30
November 2011:	11, 17, 23, 24, 30
December 2011:	7, 8, 16, 22, 23, 28
January 2012:	12, 13, 17, 20, 22, 24, 27, 28
February 2012:	25
March 2012:	1, 2, 3, 4, 10, 14
April 2012:	2, 13, 23, 24
May 2012:	2, 5, 9, 10, 16, 23
June 2012:	2, 3, 4, 5, 13, 14, 23, 26, 27, 30
July 2012:	5, 29, 30
August 2012:	1, 2, 6, 11, 13, 16, 18, 29
September 2012:	5, 9, 19, 29
October 2012:	1, 5, 7, 8, 11, 14, 15, 16, 20, 29, 30, 31
November 2012:	8, 9, 14

December 2012:	8, 9, 10, 17, 18, 19, 21, 22, 27, 28, 30
January 2013:	12, 16, 17, 29, 30, 31
February 2013:	1, 9, 10, 12, 18, 20, 24, 25, 28
March 2013:	7, 8, 9, 13, 19, 20
April 2013:	1, 9, 10, 11, 12, 13, 20, 24
May 2013:	9, 10, 12, 20, 22, 24, 25, 26, 30
June 2013:	4, 8, 11, 12, 14, 19, 26, 27, 28, 29
July 2013:	2, 12, 24, 26
August 2013:	2, 10
September 2013:	1, 3, 13, 14, 23
October 2013:	7, 18
November 2013:	1, 8, 18, 23, 27, 28
December 2013:	2, 7, 10, 15, 16, 18, 22, 24, 30
January 2014:	3, 6, 7, 11, 12, 15, 19
February 2014:	6, 14, 16, 19, 20, 21, 22
March 2014:	13, 20, 30, 31
April 2014:	1, 5, 8, 12, 16, 24, 27
May 2014:	1, 2, 17, 18, 20, 23, 28, 29, 31
June 2014:	5, 6, 11, 14, 26
July 2014:	4, 5, 6, 8, 10, 16, 17, 24, 28, 29
August 2014:	2, 8, 14
September 2014:	1, 3, 7, 14
October 2014:	1, 2, 5, 12, 17, 23, 24

EXHIBIT B

TABLE OF VIOLATIONS

November 2009 to the present

Type of Violation	**Parameter**	**Beginning Date of Violation**	**Earliest End Date of Violation**
Failure to Prepare and Implement a SWPPP	n/a	November 1, 2009	Present
Failure to Submit NOI to be Covered by the Permit	n/a	November 1, 2009	Present
Failure to Ensure that Discharges Will Not Violate Water Quality Standards	n/a	November 1, 2009	Present
Failure to Implement Adequate Control Measures	COD	November 1, 2009	Present
Failure to Implement Adequate Control Measures	TSS	November 1, 2009	Present
Failure to Implement Adequate Control Measures	Aluminum	November 1, 2009	Present
Failure to Implement Adequate Control Measures	Copper	November 1, 2009	Present
Failure to Implement Adequate Control Measures	Iron	November 1, 2009	Present
Failure to Implement Adequate Control Measures	Lead	November 1, 2009	Present
Failure to Implement Adequate Control Measures	Zinc	November 1, 2009	Present
Failure to Conduct Benchmark Monitoring: October – December QTR 2009	All	December 31, 2009	Present
Failure to Report Results of Benchmark Monitoring: October – December QTR 2009	All	January 31, 2010	Present
Failure to Conduct Benchmark Monitoring: January – March QTR 2010	All	March 31, 2010	Present
Failure to Report Results of Benchmark Monitoring: January – March QTR 2010	All	April 30, 2010	Present
Failure to Conduct Benchmark Monitoring: April – June QTR of 2010	All	June 30, 2010	Present
Failure to Report Results of Benchmark Monitoring: April – June QTR of 2010	All	July 31, 2010	Present
Failure to Conduct Benchmark Monitoring: July – September QTR 2010	All	September 30, 2010	Present
Failure to Report Results of Benchmark Monitoring: July – September QTR 2010	All	October 31, 2010	Present
Failure to Conduct Benchmark Monitoring: October – December QTR 2010	All	December 31, 2010	Present
Failure to Report Results of Benchmark Monitoring: October – December QTR 2010	All	January 31, 2011	Present
Failure to Conduct Benchmark Monitoring: January – March QTR 2011	All	March 31, 2011	Present
Failure to Report Results of Benchmark Monitoring: January – March QTR 2011	All	April 30, 2011	Present

Type of Violation	Parameter	Beginning Date of Violation	Earliest End Date of Violation
Failure to Conduct Benchmark Monitoring: April – June QTR 2011	All	June 30, 2011	Present
Failure to Report Results of Benchmark Monitoring: April – June QTR 2011	All	July 31, 2011	Present
Failure to Conduct Benchmark Monitoring: July – September QTR 2011	All	September 30, 2011	Present
Failure to Report Results of Benchmark Monitoring: July – September QTR 2011	All	October 31, 2011	Present
Failure to Conduct Benchmark Monitoring: October – December QTR 2011	All	December 31, 2011	Present
Failure to Report Results of Benchmark Monitoring: October – December QTR 2011	All	January 31, 2012	Present
Failure to Conduct Benchmark Monitoring: January – March QTR 2012	All	March 31, 2012	Present
Failure to Report Results of Benchmark Monitoring: January – March QTR 2012	All	April 30, 2012	Present
Failure to Conduct Benchmark Monitoring: April – June QTR 2012	All	June 30, 2012	Present
Failure to Report Results of Benchmark Monitoring: April – June QTR 2012	All	July 31, 2012	Present
Failure to Conduct Benchmark Monitoring: July – September QTR 2012	All	September 30, 2012	Present
Failure to Report Results of Benchmark Monitoring: July – September QTR 2012	All	October 31, 2012	Present
Failure to Conduct Benchmark Monitoring: October – December QTR 2012	All	December 31, 2012	Present
Failure to Report Results of Benchmark Monitoring: October – December QTR 2012	All	January 31, 2013	Present
Failure to Conduct Benchmark Monitoring: January – March QTR 2013	All	March 31, 2013	Present
Failure to Report Results of Benchmark Monitoring: January – March QTR 2013	All	April 30, 2013	Present
Failure to Conduct Benchmark Monitoring: April – June QTR 2013	All	June 30, 2013	Present
Failure to Report Results of Benchmark Monitoring: April – June QTR 2013	All	July 31, 2013	Present
Failure to Conduct Benchmark Monitoring: July – September QTR 2013	All	September 30, 2013	Present
Failure to Report Results of Benchmark Monitoring: July – September QTR 2013	All	October 31, 2013	Present
Failure to Conduct Benchmark Monitoring: October – December QTR 2013	All	December 31, 2013	Present
Failure to Report Results of Benchmark Monitoring: October – December QTR 2013	All	January 31, 2014	Present
Failure to Conduct Benchmark Monitoring: January – March QTR 2014	All	March 31, 2014	Present
Failure to Report Results of Benchmark Monitoring: January – March QTR 2014	All	April 30, 2014	Present
Failure to Conduct Benchmark Monitoring: April – June QTR 2014	All	June 30, 2014	Present
Failure to Report Results of Benchmark Monitoring: April – June QTR 2014	All	July 31, 2014	Present
Failure to Conduct Comprehensive Site Inspection	n/a	September 29, 2009	Present
Failure to Conduct Comprehensive Site Inspection	n/a	September 29, 2010	Present

Type of Violation	Parameter	Beginning Date of Violation	Earliest End Date of Violation
Failure to Conduct Comprehensive Site Inspection	n/a	September 29, 2011	Present
Failure to Conduct Comprehensive Site Inspection	n/a	September 29, 2012	Present
Failure to Conduct Comprehensive Site Inspection	n/a	September 29, 2013	Present
Failure to Submit Annual Reports	n/a	November 13, 2009	Present
Failure to Submit Annual Reports	n/a	November 13, 2010	Present
Failure to Submit Annual Reports	n/a	November 13, 2011	Present
Failure to Submit Annual Reports	n/a	November 13, 2012	Present
Failure to Submit Annual Reports	n/a	November 13, 2013	Present